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SUBJECT: ICTY: REGISTRY SEEKS ASSISTANCE ON BUDGET
CLARIFICATION

REF: UN DOC. A/58/449 (20 OCTOBER 2003)

1. Summary: The deputy registrar and chief budget officer of the International Criminal Tribunal for the Former Yugoslavia (ICTY) requested USG support for the ICTY's proposed budget for the 2004-2005 biennium the face of an ambiguous concluding sentence in the ACABQ's report to the Fifth Committee that could be read as recommending a \$20 million cut in the ICTY's core budget. The registry officials made a compelling case that the ACABQ intended to reduce the amount available to the ICTY to account for the poor dollar-euro exchange rate, but did not intend to recommend an across-the-board cut of the ICTY's (pre-exchange rate adjustment) baseline budget. A cut along the latter lines, they said, would have a "devastating impact" on the Tribunal's ability to implement key completion strategy projects. End summary.

2. Deputy Registrar David Tolbert and Chief Budget Officer Jorge Benito met with embassy legal officers on November 18 to alert the USG's attention to a possible misunderstanding that could arise because of the ACABQ's recent report on the ICTY's budget request for the 2004-2005 biennium (ref). Tolbert and Benito noted that the ACABQ did not reject any of the major items requested by the ICTY and that, in their view, the report as a whole was a welcomed endorsement of their implementation of the ICTY completion strategy. Indeed, they noted that the ACABQ, in paragraph 38 of its report, did not recommend any "specific reductions" because it "does not wish to impede the completion strategy" (ref).

3. Despite the endorsement of the ACABQ, Tolbert and Benito expressed concern that the Fifth Committee could interpret the last sentence of the ACABQ report as recommending a massive across-the-board cut of the ICTY's baseline budget (that is, the budget before taking into account the additional funds required to cover losses due to the poor dollar-euro exchange rate). The last sentence of paragraph 38 (the recommendation paragraph) reads, in part, as follows: ". . . the Committee recommends that the estimated requirements for the Tribunal for the biennium for 2004-2005 be reduced by USD 20 million gross." Tolbert and Benito made a persuasive case that the recommendation, in the context of paragraph 38 and the report as a whole, must pertain only to the recosting based on the poor exchange rate. The recosting, as provided by the UN Secretariat, would total approximately USD 64 million over the baseline budget of approximately USD 262 million. The ACABQ made the point in paragraph 38 that, in light of the volatility of the currency exchange rate, "it is not necessary . . . to appropriate and assess at this stage the full recosting provision projected for the next years. Instead, the General Assembly may wish to request the Secretary-General to report on additional requirements, if any, that would arise from currency movements at a time when a more complete picture of exchange rates has emerged, namely, in December 2004." It is "on this basis" that the ACABQ recommended a USD 20 million reduction. As such, it appears clear to Tribunal officials that the reduction refers only to the recosting and not to the baseline. They underscore this point by noting that the ACABQ did not identify "any particular item" where resources could be cut, though one would have expected such suggestions if the USD 20 million referred to the baseline budget itself.

4. Registry officials are particularly concerned that a misinterpretation of the ACABQ recommendation could lead to a substantial cut in the ICTY's baseline budget at a time when it is focused on implementing key completion strategy programs. Benito and his budget team already came up with substantial cuts in order to achieve a sub-zero growth budget proposal. To cut further would, in Tolbert's words, have a "devastating impact" on the Tribunal's ability to meet completion strategy goals. For instance, it would likely be unable to maintain the six ongoing trials plan of the Tribunal that is essential to concluding trials by the close of 2008, as envisioned under the completion strategy.

5. Comment: Tolbert and Benito made a persuasive case that the correct reading of the ACABQ recommendation was that it applied to recosting, not the baseline budget. As such, they hope that the Fifth Committee will approve the full baseline

budget requested along with \$47 million of the \$67 million calculated for recosting. The remaining \$20 million of recosting would be requested, as needed, in light of currency fluctuations and savings over the next year. This is something the Tribunal can live with as they recognize (as did the ACABQ report) that future currency fluctuations and savings will affect the Tribunal's needs. Moreover, an adverse reading of the recommendation would seem to conflict with the ACABQ's overall endorsement of the ICTY's budget proposal and would certainly jeopardize the ICTY's ability to keep pace with the completion strategy timeframe. End comment.

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